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FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Honorable Robert Kerrey
United States Senate
316 Hart Senate Office Building
Washington, DC 20510

Dear Senator Kerrey:

Thank you for your letter concerning the Commission's reconsideration of its rulemaking proceeding on cable rate regulation. In particular, you are concerned about per channel benchmarks as they may affect the ability of cable operators to add premium services to a regulated tier.

Your letter will be placed in the record of this proceeding. I can assure you these matters will be carefully considered.

Sincerely,

James H. Quello
Chairman

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United States Senate
WASHINGTON, DC 20510-2700

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July 12, 1993

AUG 5 1993
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Honorable James H. Quello, Acting Chairman
The Honorable Ervin Duggan, Commissioner
The Honorable Andrew Barrett, Commissioner
Federal Communications Commission
1919 M Street, NW
Washington, D. C. 20554

Dear Mr. Chairman and Commissioners:

For the past ten months each of you and your staffs have worked diligently to implement the Cable Television Consumer Protection and Competition Act of 1992. While much work has been completed and many parts of this Act are either already or soon to be implemented, a central piece of the legislation - rate regulation - is still before the Commission in the Reconsideration proceeding. It is about this issue that I am writing you.

It is, of course, impossible to anticipate all of the possible effects of the rate regulations and per channel benchmarks you recently adopted. One of these effects, which I believe was not anticipated, concerns the inability of cable operators to continue to add commercial-free, premium programming services like The Disney Channel to a regulated tier of service because the cost of such a programming service would most likely exceed the amount the cable operator can charge subscribers for the additional channel. If the cable operator is not allowed to charge subscribers for the full programming cost for such a service, including some reasonable profit, then commercial-free, premium services like The Disney Channel will never be available in regulated markets as part of tiers.

Given that the goal of the Act is to reduce rates, I am sure the Commission would not want to adopt regulations that, however inadvertently, increase consumers' monthly cable bills. I am not asking you to make an exception solely for The Disney Channel. Likewise, I am not asking you to make a decision based on the program content on The Disney Channel, although it is worth noting that it is a longstanding Congressional goal to make more commercial-free children's programming available to more children. Rather, I am hoping that you will seek a regulatory scheme that permits local operators to include commercial-free channels such as The Disney Channel in a tier, rather than impeding them. Indeed,

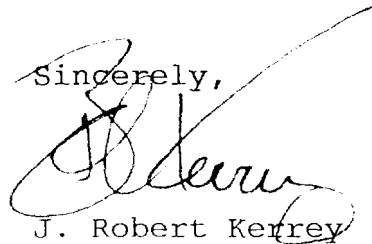
The Honorable James H. Quello
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my understanding is that when The Disney Channel is made available to consumers as part of a tier, it tends to be one of the most watched channels and one of the most popular with consumers.

The Disney Channel filed a Petition for Clarification and Reconsideration with the Commission specifically requesting that programming cost pass throughs be allowed, to the extent such costs exceed a cable system's marginal per channel benchmark. This request, in my opinion, would redress the problem outlined above, be consistent with Congressional intent, and serve the public interest.

I hope that you will carefully evaluate The Disney Channel's Petition.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Robert Kerrey", is written over the typed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

J. Robert Kerrey